

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1) DAVON VAN DOREN, and

2) NATHANIEL MONK,

Plaintiffs,

V.

Case No. 4:17-cv-00053-CVE-FHM

1) TRINITY INDUSTRIES, INC.,

A foreign, for-profit corporation,

Defendant.

DEFENDANT TRINITY INDUSTRIES NOTICE OF REMOVAL

Defendant Trinity Industries, Inc. (“Trinity” or “Defendant”)¹ hereby notices the removal of this action pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 to the United States District Court for the Northern District of Oklahoma, and as grounds therefor states:

I. TIMELINESS OF REMOVAL

On or about October 31, 2016, Plaintiffs Davon Van Doren (“Van Doren”) and Nathaniel Monk (“Monk”) (collectively “Plaintiffs”) filed a civil action against Defendant in the District Court in and for Tulsa County, State of Oklahoma, Case No. CJ-2016-3950. Pursuant to 28 U.S.C. § 1446(a) and LCvR81.2, copies of all documents filed or served in this case, along with a docket sheet of the matter are attached hereto as Exhibit “1”. Defendant has not yet been served with the Petition. Accordingly, Defendant is timely filing this Notice of Removal, as required by 28 U.S.C. § 1446(b).

¹ At all times relevant to the allegations in the Complaint, Plaintiffs, Davon Van Doren and Nathaniel Monk were employed by Trinity Containers, LLC. Plaintiffs, however, are current employees of Trinity Structural Towers, Inc. Trinity Industries, Inc. has not employed Plaintiffs, but is merely the parent company of both Trinity Containers, LLC and Trinity Structural Towers, Inc.

II. VENUE

The District Court in and for Tulsa County, State of Oklahoma is located within the Northern District of Oklahoma. Therefore, venue is proper in this Court because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

III. BASIS FOR REMOVAL: DIVERSITY JURISDICTION

This action is properly removable under 28 U.S.C. § 1441(a), because the United States District Court has original jurisdiction in this case pursuant to 28 U.S.C. § 1332(a), which provides, “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between...citizens of different States....”

A. The Amount in Controversy Exceeds \$75,000

This is an action to recover damages for wrongful termination in violation of Oklahoma public policy. Plaintiff seeks damages “in an amount in excess of \$75,000.” [Petition, Prayer] Accordingly, the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

B. Complete Diversity of Citizenship Exists between Plaintiff and the Properly Named Defendants

Plaintiffs are citizens of the State of Oklahoma. [Complaint, ¶1] Defendant is a corporation organized under the laws of the state of Delaware, and having its principal place of business in Dallas, Texas, and therefore is a citizen of Delaware and Texas within the meaning of 28 U.S.C. § 1332. [Declaration of Bryan Stevenson, ¶4, attached hereto as Exhibit “2”] At all times relevant to the allegations in the Complaint, Plaintiffs were employed by Trinity Containers, LLC. Trinity Containers, LLC is a limited liability company organized under the laws of the State of Delaware, and having its principal place of business in Dallas, Texas.

[Stevenson Decl., ¶5, Ex. “2”] Plaintiffs’ current employer, Trinity Structural Towers, Inc. is a corporation organized under the laws of the state of Delaware, and having its principal place of business in Dallas, Texas, and therefore is also a citizen of Delaware and Texas within the meaning of 28 U.S.C. § 1332. [Stevenson Decl., ¶6, Ex. “2”]

IV. CONSENT OF ALL DEFENDANTS

Trinity is the only named Defendant in this matter.

V. CONCLUSION

In accordance with 28 U.S.C. § 1446, copies of this Notice of Removal will be promptly served upon counsel for all adverse parties and filed with the Clerk of the District Court in and for Tulsa County, State of Oklahoma.

WHEREFORE, Defendant respectfully requests that this Court take jurisdiction of this action and issue all necessary orders and process to remove it from the District Court in and for Tulsa County, State of Oklahoma to the United States District Court for the Northern District of Oklahoma.

Respectfully submitted,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

/s/ Stephanie Johnson Manning

EVA W. TURNER

Texas Bar No. 24051485

eva.turner@ogletreedeakins.com

STEPHANIE JOHNSON MANNING

Oklahoma Bar No. 18741

Texas Bar No. 24099422

stephanie.manning@ogletreedeakins.com

Preston Commons West

8117 Preston Road, Suite 500

Dallas, TX 75225

214.987.3800

214.987.3927 (Fax)

VICTOR F. ALBERT
Oklahoma Bar No. 12069
victor.albert@ogletreedeakins.com
101 Park Avenue Building
101 Park Avenue, Suite 1300
Oklahoma City, OK 73102
405.546.3774
405.546.3775 (Fax)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of February, 2017, I filed the foregoing with the Clerk of the Court using the ECF filing system, which will send notification of such filing to the following:

J. Derek Ingle
Hans Otto Lehr
Benjamin Oxford

/s/ Stephanie Johnson Manning
Stephanie Johnson Manning

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